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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/920,295      | 08/02/2001  | Michael Kreindel     | KREINDEL=2          | 3901             |

1444 7590 04/23/2003

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WASHINGTON, DC 20001-5303

EXAMINER

FARAH, AHMED M

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

3739

DATE MAILED: 04/23/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.  
09/920,295

Applicant(s)  
Micheal Kreindel

Examiner  
A. Farah

Art Unit  
3739

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE three MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on Feb 7, 2003
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☒ Claim(s) 21 and 22 is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some\* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper Note. \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

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## DETAILED ACTION

### *Specification*

1. The disclosure is objected to because of the following informalities: in line 9 of the amendment to page 3 of the specification (the amendment filed 02/07/02), the term "controller 20" is incorrect and should be changed to --controller 120--. Appropriate correction is required. ✓

### *Claim Objections*

2. Claims 1 and 10 are objected to because of the following informalities: the phrase "skin impotence" in the claims is believed to be a typographical error. In examining the claims, this term is treated as being --skin impedance--. Appropriate correction is required. ✓

### *Claim Rejections - 35 USC § 102*

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Shaddock U.S.

Patent No. 6,053,909.

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Shadduck discloses a system (see Fig. 6) and method for treating skin of a patient, the system comprising:

(a) a surface radiation assembly configured to irradiate a region on the surface of the skin (see Fig. 3 and Col. 7, lines 40-48);

(b) a surface electrode assembly comprising at least a first pair of a first electrode 40A and a second electrode 40B, the first and second electrodes being configured to be applied to the surface of the skin and to apply a voltage to the skin surface (see Fig. 8A and Col. 8, lines 28-36);

© an electrical meter [comprising a sensor array 50 (see Fig 7), impedance-measuring feedback (see Fig. 7 and Col. 13, lines 4-12), temperature measuring-feedback (see Col. 12, line 59 to Col. 13, line 3), and current and voltage-measuring feedback (see Fig. 7, and Col. 13, lines 18-22)], the meter configured to measure an electrical response of the skin to a voltage applied across the electrodes.

(d) a processor (control system 26) configured to adjust value of a parameter of the radiation based upon a measured electrical response to a voltage applied across the first and second electrodes, and wherein the electrical response of the skin is skin impedance or skin conductivity (see Col. 10, lines 22-29 and Col. 5, lines 24-34).

As to claims 2 and 13, the value of the parameters is adjusted in order to control the skin temperature (Col. 12, line 59 to Col. 13, line 3).

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As to claims 7 and 18, the first and second electrodes (40A and 40B, respectively) are the source of radiation.

As to claims 3, 4, 6, 14, 15, and 17, the electromagnetic radiation applied to the skin is in the radio frequency.

As to claims 5 and 16, the adjusted parameter is selected from the group comprising the irradiation intensity, irradiation frequency, and irradiation duration as presently claimed (see Col. 9, line 57 to Col. 10, line 19).

***Allowable Subject Matter***

5. The indicated allowability of claim 10 is withdrawn as the no longer features allowable subject matter. The amendment filed on February 7, 2003, has removed from the claim the allowable subject matter.

6. Claims 21 and 22 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to A. Farah whose telephone number is (703) 305-5787. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ms. Linda Dvorak, can be reached on (703) 308-0994. The fax number for the Examiner is (703) 746-3368.

**A. M. Farah**

**Patent Examiner (Art Unit 3739)**



April 18, 2003



**Linda Q. M. Dvorak**

**Supervisory Patent Examiner**